

Tentative Rulings for December 5, 2011

Department 2G

**To request oral argument, you must notify Barbara Berg at
(760) 904-5722 and inform all other counsel no later than 4:00 p.m.**

1.

INC 069420	The Retreat Partners v. GSV-2 Resort Developers	Motion to Recuse (Disqualify) Counsel by Plaintiffs
---------------	--	--

Tentative Ruling: Grant. No opposition.

2.

INC 091465	Balderas v. Hyatt Corporation	Motion for Summary Adjudication on First Amended Complaint by Hyatt Corporation, Steven Carl, Darren Zemnick
---------------	-------------------------------	---

Tentative Ruling: Deny. Triable issues exist as to whether plaintiff Balderas was subjected to unlawful sexual harassment and retaliation as a result of complaints of sexual harassment. Further, triable issues exist as to whether defendant Hyatt reasonably accommodated plaintiff Coronel and/or discriminated against him in March 2010 when he was offered positions at less than half the pay of his previous position. Triable issues also exist as to whether defendant Hyatt failed to properly engage in the interactive process in 2009-2010, whether the offered positions constituted a constructive discharge and whether the purported discriminatory or retaliatory conduct constituted extreme and outrageous conduct to support an Intention Infliction of Emotional Distress claim.

3.

INC 10000263	Kramer v. Agua Caliente Hotel	Motion for Class Certification by Kimberly Kramer
-----------------	----------------------------------	--

Tentative Ruling: Deny. Common questions do not predominate. Plaintiff has failed to establish a standardized practice or pattern regarding breaks for the purported class period. The numerosity requirement has not been met because there are only 20+ potential class members and 6 of them have settled all employment claims with the Defendant. Plaintiff is not an adequate class representative.

4.

INC 10006760	Borzachillo v. Ahmad	Demurrer to Fourth Amended Complaint by Sohail Ahmad, M.D.
-----------------	----------------------	---

Tentative Ruling: Sustain. No leave to amend. Plaintiff has again failed to plead facts which adequately support any of the counts in the Third Cause of Action.

5.

INC	Borzachillo v. Ahmad	Motion to Strike Fourth Amended
-----	----------------------	---------------------------------

10006760		Complaint by Sohail Ahmad, M.D.
----------	--	---------------------------------

Tentative Ruling: Off calendar.

6.

INC 1101581	JPMorgan Chase Bank v. The Hart Gallery, Inc.	Motion for Summary Adjudication on Complaint by JPMorgan Chase Bank
----------------	--	--

Tentative Ruling: Deny (Code Civ. Proc. § 437c(d)). Motion for Summary Judgment must be supported by admissible evidence. Inter alia, plaintiff has failed to submit admissible evidence authenticating the Washington Mutual Bank loan documents or attesting to the assignment of the loan from Washington Mutual Bank. Proponent to prepare a proposed order pursuant to CRC 3.1312 and Code Civ. Proc. § 437c(g).

7.

INC 1101912	Seecon XIX Partners v. Samuel	Hearing Re: Collection of Prejudgment Interest
----------------	----------------------------------	---

Tentative Ruling: Personal appearances required.

8.

INC 1106445	El Paseo Park Plaza v. Patzner	Demurrer to Complaint by Patricia L. Patzner
----------------	-----------------------------------	---

Tentative Ruling: Overrule (Weil & Brown ¶¶ 6:104; 7:85). “Neither the Code nor the CRC specifically require that each ‘cause of action’ be separately stated.”

9.

INC 1107498	Lee v. Said	Motion to Quash Service of Process by Saad Said, Saher Said, Almanian Holdings, Inc.
----------------	-------------	--

Tentative Ruling: Deny. Plaintiffs have submitted a detailed declaration from the registered process server establishing that Saad Said was properly served by substitute service. Defendants have failed to submit evidence in support of their motion.